

SJ 22 Possible Bill Draft Language

Thursday, February 13, 2014

Preliminary Bill Drafts (not yet formally requested as committee bills)

SJ 22: Study of family law procedures and alternatives

For discussion on February 13, 2014

Draft Number	Concept	Status	Drafter	Committee Action?
LClj01	Adjust debt limit allowed for an uncontested divorce	Preliminary draft -- needs a debt limit	Weiss	
LClj02	Eliminate requirement for a hearing before a judge enters final dissolution decree in certain cases	Preliminary draft -- not yet approved as formal committee bill	Burkhardt	
LClj03	Clarify who must move to amend parenting plan when one parent relocates	Preliminary draft -- not yet approved as formal committee bill	Burkhardt	
LClj04	Allow husband to restore original name as part of dissolution filing	Preliminary draft -- not yet approved as formal committee bill	Weiss	

Last updated January 27, 2014

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act amending the amount of unpaid, unsecured obligations that the parties to a summary dissolution proceeding may have; ."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 40-4-130, MCA, is amended to read:

"40-4-130. Summary dissolution -- conditions necessary at commencement of proceedings. A marriage may be dissolved by the summary dissolution procedure specified in 40-4-130 through 40-4-136 if all of the following conditions exist on the date the proceeding is commenced:

(1) Each party has met the requirements of 40-4-104 with regard to dissolution of marriage.

(2) Irreconcilable differences have caused the irretrievable breakdown of the marriage, and both parties agree that the marriage should be dissolved.

(3) The wife is not pregnant and:

(a) there are no children from the relationship born before or during the marriage or adopted by the parties during the marriage; or

(b) the parties have executed an agreed-upon parenting plan and the child support and medical support have been determined by

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judicial or administrative order for all children from the relationship born before or during the marriage or adopted by the parties during the marriage.

(4) (a) Except as provided in subsection (4)(b), neither party has any interest in real property.

(b) The limitation of subsection (4)(a) does not apply to the lease of a residence occupied by either party if the lease does not include an option to purchase and if it terminates within 1 year from the date of the filing of the petition.

(5) There are no unpaid, unsecured obligations in excess of ~~\$8,000~~ \$XXXX incurred by either or both of the parties after the date of their marriage.

(6) The total fair market value of assets, excluding secured obligations, is less than \$25,000.

(7) The parties have executed an agreement setting forth the division of assets and the assumption of liabilities and have executed any documents, title certificates, bills of sale, or other evidence of transfer necessary to effectuate the agreement.

(8) The parties waive any right to maintenance.

(9) The parties, upon entry of final judgment of dissolution of marriage, irrevocably waive their respective rights to appeal the terms of the dissolution and their rights to move for a new trial on the dissolution.

(10) The parties have read and state that they understand the contents of the summary dissolution brochure provided for in 40-4-136.

(11) The parties desire that the court dissolve the

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marriage."

{ Internal References to 40-4-130:

40-4-130 *	40-4-131	40-4-132 *	40-4-133
40-4-135	40-4-136 *	40-4-136 *	40-4-136 *
40-4-136 *			

}

- END -

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**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act allowing a husband to request restoration of a former name in a dissolution proceeding;."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 40-4-108, MCA, is amended to read:

"40-4-108. Decree. (1) A decree of dissolution of marriage or of legal separation is final when entered, subject to the right of appeal. An appeal from the decree of dissolution that does not challenge the finding that the marriage is irretrievably broken does not delay the finality of that provision of the decree that dissolves the marriage beyond the time for appealing from that provision, and either of the parties may remarry pending appeal.

(2) No earlier than 6 months after entry of a decree of legal separation, the court on motion of either party shall convert the decree to a decree of dissolution of marriage.

(3) The clerk of the court shall give notice of the entry of a decree of dissolution:

(a) if the marriage is registered in this state, to the clerk of the district court of the county where the marriage is registered, who shall enter the fact of dissolution in the book in which the marriage license and certificate are recorded; or

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(b) if the marriage is registered in another jurisdiction, to the appropriate official of that jurisdiction, with the request that the official enter the fact of dissolution in the appropriate record.

(4) Upon request by a wife or a husband whose marriage is dissolved or declared invalid, the court shall order the wife's or the husband's maiden name or a former name restored."

{Internal References to 40-4-108: None.}

- END -

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**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act providing for a decree of dissolution without a hearing when the dissolution is uncontested."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 40-4-108, MCA, is amended to read:

"40-4-108. Decree. (1) A decree of dissolution of marriage or of legal separation is final when entered, subject to the right of appeal. An appeal from the decree of dissolution that does not challenge the finding that the marriage is irretrievably broken does not delay the finality of that provision of the decree that dissolves the marriage beyond the time for appealing from that provision, and either of the parties may remarry pending appeal.

(2) No earlier than 6 months after entry of a decree of legal separation, the court on motion of either party shall convert the decree to a decree of dissolution of marriage.

(3) The clerk of the court shall give notice of the entry of a decree of dissolution:

(a) if the marriage is registered in this state, to the clerk of the district court of the county where the marriage is registered, who shall enter the fact of dissolution in the book

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in which the marriage license and certificate are recorded; or

(b) if the marriage is registered in another jurisdiction, to the appropriate official of that jurisdiction, with the request that the official enter the fact of dissolution in the appropriate record.

(4) In an uncontested dissolution, either party may request entry of a decree of dissolution without a hearing. The non-requesting party has 10 days to object to entry of the decree of dissolution. If no objection is filed within 10 days, the court shall enter the decree of dissolution.

~~(4)~~(5) Upon request by a wife whose marriage is dissolved or declared invalid, the court shall order the wife's maiden name or a former name restored."

{ Internal References to 40-4-108: None. }

- END -

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LC1j03

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act providing that a parent who is moving is responsible for filing the motion to amend the parenting plan in the event the parents cannot agree to a change to the residential schedule."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 40-4-217, MCA, is amended to read:

"40-4-217. Notice of intent to move. (1) A parent who intends to change residence shall, unless precluded under 40-4-234, provide written notice to the other parent.

(2) If a parent's change in residence will significantly affect the child's contact with the other parent, notice must be served personally or given by certified mail not less than 30 days before the proposed change in residence and must include a proposed revised residential schedule. Proof of service must be filed with the court that adopted the parenting plan. Failure of the parent who receives notice to respond to the written notice ~~or to seek amendment of the residential schedule pursuant to 40-4-219~~ or notify the court that adopted the parenting plan of the disagreement within the 30-day period constitutes acceptance of the proposed revised residential schedule.

(3) If the parties do not agree to the proposed change in

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residence and the proposed revised residential schedule, the parent who is moving is responsible for filing a motion to amend the parenting plan pursuant to 40-4-219 with the court that adopted the parenting plan."

{ Internal References to 40-4-217:
40-4-234 45-5-632 }

- END -

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